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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + **ITA 992/2015**

PR. COMMISSIONER OF INCOME TAX (CENTRAL-2).. Appellant

Through: Sh. Dileep Shivpuri, Sr. Standing
 Counsel along with Sh. Sanjay Kumar,
 Standing Counsel.

versus

LALIT MODI

..... Respondent

Through: Mr. Ajay Vohra, Sr. Advocate along
 with Mrs. Kavita Jha, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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16.08.2016

The revenue claims to be aggrieved by an order of the Income Tax Appellate Tribunal (ITAT) of 29.05.2015 in ITA 329/Del/2014. The brief facts of the case are that a survey was carried out in the premises of the assessee; during the course of the assessment three additions were made against which the assessee felt aggrieved and carried it in appeal. The CIT(A) allowed that appeal. The revenue's appeal to the ITAT has been dismissed by the impugned order.

Mr. Dileep Shivpuri, learned counsel for the appellant urges that three questions of law arise pertaining to the selection/deletion of the amounts which were originally included in the assessment. The first pertains to deletion of the addition made to the tune of Rs. 65,70,747/-.

It is urged that the consideration of the document seized in the course of the survey i.e. dated 18.06.2009, on a plain reading would reveal that in fact the amounts were shown to have been received and therefore the assessee was liable "to pay" tax on it. It is also submitted that given the nature of the assessee's business, the inferences drawn by the AO were not only justified but sound. We notice that the CIT appeals as well as the ITAT appeal were unpersuaded by the revenue's statements. The assessee had contended that the document was of no value and was in fact the proposals and deals which could not mature and thus could not be the basis of the AO's decision. As noticed earlier, apart from the interpretation preferred in the course of the appeal, there is no other material to substantiate the revenue's contention. The interpretation accepted by the concurring judicial opinion in this court's view, cannot be considered palpably unreasonable as to result in a substantial question of law pertaining to a perversity in the findings. No question of law – at least as sought to be urged at this point arises.

Second ground on which the revenue claims to be aggrieved is the deletion of Rs. 40 lacs. The assessee had, in the first instance, recorded the statement under Section 132 (4). In his statement, he had amongst others indicated that the jewellery which was in his possession and/of that belonging to his family had been sold. The AO was of the opinion that this was duly recorded in the returns and sought to bring it to taxation.

The CIT and therefore the ITAT noticed that the assessee had subsequently given an explanation on 10.08.2009 and furthermore significantly surrendered Rs. 65 crores which was accepted by the AO.

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Having regard to these factual findings, the Court is of the opinion that no substantial question of law arises in this Court.

As far as the last deletion i.e. in respect of the amount to tax on an application on Section 14 A is concerned, we are satisfied that the findings are entirely factual and do not call for any interference.

There is no merit in the appeal and it is therefore dismissed.


S. RAVINDRA BHAT, J


NAJMI WAZIRI, J

AUGUST 16, 2016
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